



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 5165-98  
17 April 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: MAJ [REDACTED] USMCR, [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 31 Mar 98 w/attachment  
(2) HQMC PERB memo dtd 2 Jul 98  
(3) HQMC MMOA-4 memo dtd 1 Jul 98  
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by removing the fitness reports for 1 May to 28 November 1988 and 9 April to 7 August 1990, copies of which are in enclosure (1) at Tabs A and B. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of the contested fitness reports. Petitioner further requested removal of his failure of selection by the Fiscal Year (FY) 1998 Reserve Major Selection Board. He also requested a special selection board for FY 1998. This request was not considered since he was selected by the FY 2000 Reserve Major Selection Board, and he has been promoted.

2. The Board, consisting of Messrs. Geisler, Leeman, and Silberman, reviewed Petitioner's allegations of error and injustice on 11 April 2000, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (3), the HQMC office having cognizance over the subject matter of Petitioner's request to strike his failure of selection by the FY 1998 Reserve Major Selection Board has commented to the effect that this request has merit and warrants favorable action.

c. After Petitioner had applied to this Board, he failed of selection by the FY 1999 Reserve Major Selection Board. The contested fitness reports were in his naval record for both the FY 1998 and 1999 promotion boards. Petitioner's requests to remove his FY 1998 failure and grant him a special selection board for FY 1998 imply a further request to remove his FY 1999 failure.

**CONCLUSION:**

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting removal of Petitioner's failure by the FY 1998 Reserve Major Selection Board. They find enclosure (3) equally applicable in supporting removal of his failure by the FY 1999 Reserve Major Selection Board. In view of the above, the Board directs the following corrective action.

**RECOMMENDATION:**


a. That Petitioner's naval record be corrected by removing his failures of selection by the FY 1998 and 1999 Reserve Major Selection Boards.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

Executed

5165-98



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
2 NAVY ANNEX  
WASHINGTON, DC 20380-1775

IN REPLY REFER TO  
1610  
MMER  
2 Jul 98

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF CAPTAIN [REDACTED]

Encl: (1) Copy of CMC ltr 1610 MMR/PERB of 11 Jun 98  
(2) Copy of CMC ltr 1610 MMR/PERB of 30 Jun 98  
(3) CMC Advisory Opinion 1600 MMOA-4 of 1 Jul 98

1. As evidenced by enclosures (1) and (2), PERB removed from Captain [REDACTED] official military record, the fitness reports for the periods 900409 to 900807 (TR) and 880501 to 881128 (TR).

2. We defer to BCNR on the issue of Captain [REDACTED]'s request for the removal of his failure of selection to the grade of Major. Enclosure (3) is furnished to assist in resolving that matter.

[REDACTED]  
Head, Performance Evaluation  
Review Branch  
Personnel Management Division  
By direction of the Commandant  
of the Marine Corps

OPTIONAL FORM 98 (7-90)

## FAX TRANSMITTAL

# of pages - 46

To [REDACTED]	From [REDACTED]
Dept./Agency BCNR	Phone [REDACTED]
Fax [REDACTED]	Fax # [REDACTED]
NSN 7540-01-317-7368	5099-101
GENERAL SERVICES ADMINISTRATION	



OPTIONAL FORM 99 (7-90)

## FAX TRANSMITTAL

# of pages 46 8

[Redacted]		From [Redacted]
Dept / Agency BCNR		Phone [Redacted]
Fax [Redacted]		Fax # [Redacted]

NSN 7540 01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

IN REPLY REFER TO:

1600

MMOA-4

01 Jul 98

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDSSubj: BCNR PETITION FOR CAPTAIN [Redacted]  
[Redacted] USMCRRef: (a) MMER Request for Advisory Opinion in the case of  
Captain [Redacted] USMCR  
of 15 Jun 98

1. Recommend approval of Captain [Redacted] request for removal of his failure of selection and for a Special Selection Board.
2. Per the reference, we reviewed Captain [Redacted] record and his petition. Captain [Redacted] failed selection on the FY98 USMCR Major Selection Board. Subsequently, he petitioned the Board for Correction of Naval Records to remove the fitness reports for the periods of 880501-881128 and 900409-900807. The Performance Evaluation Review Board removed the contested reports. Captain [Redacted] requests removal of his failure of selection and a Special Selection board.
3. In our opinion, the petitioned reports presented competitive jeopardy to the record. The fitness report for the period 880501-881128, though a not observed training report, contains an adverse comment to which Captain [Redacted] did not have the opportunity to rebut. On the fitness report for the period 900409-900807, Captain [Redacted] received Excellent Section B marks in Administrative Duties, Handling Officers, Training Personnel, Personal Appearance, Military Presence, Loyalty, Personal Relations, Economy of Management, and Growth Potential. The report contained Above Average Section B marks in Regular Duties, Handling Enlisted Personnel, Attention to Duty, Cooperation, Judgment, Force, and Leadership, as well as an Average mark in Initiative. Furthermore, he has three officers ranked above him and was the only officer assigned a General Value to the Service mark of Excellent. Finally, the Reporting Senior indicated he would "Be Glad" to serve with Captain [Redacted] combat.
4. Even though Captain [Redacted] record contains areas of competitive concern in Value and Distribution, Section B Trends, his low Basic School standing and lack of PME, the petitioned reports represented the most significant jeopardy to the record.

5165-98

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]  
USMCR

Removal of the two reports may have removed sufficient jeopardy to have caused Captain [REDACTED] selection. Therefore, we recommend approval of the request for removal of failure of selection and for a Special Selection Board.

[REDACTED]  
Major, U. S. Marine Corps  
Assistant Head, Officer Counseling  
and Evaluation Section  
Officer Assignment Branch  
Personnel Management Division